

STATEMENT OF
PAUL A. HAYDEN, DEPUTY DIRECTOR
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES
BEFORE THE
SUBCOMMITTEE ON BENEFITS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
WITH RESPECT TO

H.R. 241, *VETERANS BENEFICIARY FAIRNESS ACT OF 2003*;
H.R. 533, *AGENT ORANGE VETERANS' DISABLED CHILDREN'S BENEFITS ACT OF 2003*;
H.R. 761, *DISABLED SERVICEMEMBERS ADAPTED HOUSING ASSISTANCE ACT OF 2003*;
H.R. 850, *FORMER PRISONERS OF WAR SPECIAL COMPENSATION ACT OF 2003*;
H.R. 966 *DISABLED VETERANS RETURN-TO-WORK ACT OF 2003*; AND
H.R. 1048, *DISABLED VETERANS ADAPTIVE BENEFITS IMPROVEMENT ACT OF 2003*

WASHINGTON, D.C.

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MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the 2.6 million members of the Veterans of Foreign Wars of the United States (VFW) and our Ladies Auxiliary, I would like to thank you for the opportunity to present our views on the following legislation.

H.R. 241 - *Veterans Beneficiary Fairness Act of 2003*

Last summer, the voting delegates to the VFW National Convention in Nashville, Tennessee, approved Resolution 628, which calls for the removal of the limitation on payment of accrued benefits. We would like to thank this subcommittee for addressing this issue and to express our strong support for this legislation that would repeal the inequitable two-year limitation on accrued benefits.

Under current law, if a veteran dies while a claim for VA benefits is being processed, the surviving spouse is entitled to no more than two years of accrued benefits. With the time period for processing claims and appeals often taking over two years, this law unjustly penalizes the survivor. The surviving spouse or children should not be made to suffer economically due to erroneous VA decisions or because VA has been unable to process the claim in a timely manner. This legislation, H.R. 241, will correct this wrong.

We urge Congress to enact the *Veterans Beneficiary Fairness Act of 2003* as it will ensure that the veteran's surviving spouse or child will receive the full amount of accrued benefits earned that the veteran would have been otherwise entitled had the veteran not passed away.

H.R. 533 - *Agent Orange Veterans' Disabled Children's Benefits Act of 2003*

It is our understanding that VA is in the process of issuing regulations, under the authority of P.L. 102-4, the *Agent Orange Act of 1991*, that would extend a presumption of exposure to veterans who served in locations other than Vietnam which also involved the use of herbicides, primarily Agent Orange. For example, veterans serving near the Demilitarized Zone between North and South Korea, in Panama and Johnston Island may have been exposed through the use of these agents in the late 1960s. Attached is an article from the February 2000, *VFW Magazine* discussing servicemembers' exposure to herbicides in Korea.

With this in mind, the VFW strongly supports H.R. 533, legislation that would now equitably include the eligible child of any veteran, as stipulated in Chapter 18 of Title 38, United States Code (U.S.C.), who was exposed to herbicides used in certain other locations during the veteran's active military service on the same basis as veterans who are eligible under Chapter 11 of Title 38, U.S.C. That authority, however, does not extend to those claimants under Chapter 18, Title 38, U.S.C., because their entitlement was not established until after P.L. 102-4 was enacted.

The VFW has long supported entitlements for conditions caused by herbicide exposure, and we believe this bill will correct an inequity in the current law.

H.R. 761 - *Disabled Servicemembers Adapted Housing Assistance Act of 2003*

The VFW supports this bill as it will authorize adaptive housing assistance to members of the Armed Forces who are on active duty pending medical separation. Current law states that you must be a disabled veteran in order to apply for adaptive housing assistance. Consequently, those members of the Armed Forces who are on active duty pending medical separation are not eligible to apply for these benefits that they will eventually receive when they attain veteran status. Delaying such assistance unnecessarily impedes recovery, rehabilitation, and, most importantly, the servicemember's transition into independent living.

By giving those disabled military personnel a head start in the process, you will reduce the time they must wait to make their homes handicapped-accessible. Renovations such as wheelchair ramps, elevator construction, and bathroom adjustments are often time-consuming and expensive. Having these completed prior to discharge will dramatically improve the disabled servicemember's quality of life as well as ease the burden placed on those entrusted with their care. The VFW feels this benefits all involved.

H.R. 850 - *Former Prisoners of War Special Compensation Act of 2003*

Section 2 would establish a three-tiered special monthly compensation to former Prisoners of War to be based upon length of captivity as follows:

- Those who were detained 30-120 days would receive \$150 per month
- Those who were detained 121-540 days would receive \$300 per month
- Those detained 540 or more days would receive \$450 per month

This section highlights an injustice that has long bothered us. We have never understood the delimiting factor of 30 days, which, in this bill, is just a reflection of the definition stipulated in Title

38, U.S.C. §1112(b) for service connected disabilities for POWs. The VFW feels that all POWs should be included in this special monthly pension.

Often the first hours and days of captivity are the most difficult. From the moment a plane or helicopter goes down or an enemy ambush occurs, such as the incident of those five soldiers from the 507th Maintenance Battalion recently captured in Iraq, the physical and psychological torture begins. For example, in a recent *Washington Post* article, former POW and retired Marine, Major Joseph Small, described his captivity in the 1991 Persian Gulf War: “The first few hours are the worst... your senses are so overwhelmed by the physical and mental shock. Your environment has completely changed... and you aren't free anymore.” But, Major Small is not eligible for a pension under this provision or for any presumptions in §1112 of Title 38, U.S.C., because he was a POW for only nine days.

We strongly suggest eliminating the 30-day requirement for eligibility not just in this bill but also as a part of Title 38, U.S.C., §1112(b). By eliminating the 30-day starting period in the first tier so that eligibility starts from the moment of capture, you will include those POWs who have been held for shorter intervals but have certainly suffered most of the same physical and psychological trauma as other POWs.

The VFW objects to Section 3 of H.R. 850, which would amend the clarification of payment of compensation for alcohol or drug related disability to preclude service connection on a secondary basis.

Physicians often consider alcohol and drug related disabilities to be secondary conditions of Post Traumatic Stress Disorder resulting from such situations as internment as a POW or from severe combat war wounds such as an amputation. Many of these veterans use drugs and alcohol to self-medicate themselves in order to combat the depression caused by their war experiences. This, coupled with their primary condition, impairs their ability to manage day-to-day activities, like holding a job. Accordingly, their earning potential is limited.

Disability compensation was intended to compensate the veteran for that limited earning potential due to injuries suffered while defending this nation. Further, restricting veterans from receiving these benefits, which were granted in relation to a primary service connected condition, directly opposes the principles behind service connected disability compensation; we believe this is a grave injustice.

The VFW is pleased to support Section 4 that would extend outpatient dental care to all former POWs regardless of their length of captivity.

H.R. 966 – *Disabled Veterans’ Return-to-Work Act of 2003*

The VFW supports H.R. 966, the *Disabled Veterans’ Return-to-Work Act of 2003*. This measure reinstates a VA pilot program that expired in December 1995 to provide vocational training to newly eligible non-service connected pension recipients. As a long-time advocate of providing vocational opportunities for veterans, we believe that this legislation, open to those veterans age 45 years or younger, will provide these pension recipients the opportunity to develop professional career skills thus opening the door to independence.

All too often, veterans are discouraged from seeking employment because of the needs-based structure of VA's pension program, whereby every dollar they earn is offset from the monthly pension they receive. Giving them the chance to gain the skills needed to return to work will give them a sense of accomplishment as they provide for themselves and their families.

The VFW especially welcomes the language in section 2(c) that will enhance outreach for the reinstated program. Utilizing the Internet, veteran service organizations' publications along with VA's resources will create awareness for the program thus increasing its enrollment. We strongly believe that significant outreach is a primary key to the success of this program.

H.R. 1048 – Disabled Veterans Adaptive Benefits Improvement Act of 2003

The VFW supports this bill that would increase the specially adaptive housing grant from \$48,000 to \$50,000 for the most severely disabled veterans and from \$9,250 to \$10,000 for other disabled veterans. It will also increase the one-time reimbursement VA may provide to certain severely disabled veterans to assist them in their purchase of an automobile.

With respect to Section 2, we urge the subcommittee to allow for a second housing grant. VFW Resolution 616 supports this change. Like other families today, veterans' housing needs change with time and new circumstances. For instance, a veteran's home may become too small when the family grows or too big when children leave home. Changes in the veteran's disability may necessitate a home having to undergo other renovations for adaptation. For these reasons, the ability to obtain a second grant would be a very beneficial entitlement for the veteran.

With respect to Section 3 of this legislation, we support the increase from \$9,000 to \$11,000, and we ask this subcommittee to provide for an automatic annual adjustment based on the rise in the cost of living.

Congress initially fixed the amount of the automobile grant to cover the full cost of the automobile. Currently, the value of the automobile allowance represents only 35% of the average cost of a new automobile. We believe that if the benefit is to accomplish its purpose, it must be adjusted automatically to reflect an increase in line with present and future automobile costs.

We feel enacting this legislation would help restore the value and effectiveness of these grants so that the most severely disabled veterans can regain independence and improve their daily living.

Mr. Chairman and members of the subcommittee, this concludes the VFW's testimony. We again thank you for including us in today's important discussion, and I will be happy to respond to any questions you may have. Thank you.